

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GETRO MILFORT,

Plaintiff,

10 Civ. 4467 (WFK)(JO)

-against-

COURT OFFICER FELIX PREVETE
COURT OFFICER CHRISTOPHER FERRARI

**DEFENDANTS PREVETE AND
FERRARI' S REQUEST
FOR VOIRE DIRE**

Defendants.

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Defendants, Lieutenant Felix Prevete and Court Officer Christopher Ferrari ("Defendants"), by their attorney, the New York State Office of the Attorney General, pursuant to Rule 47 of the Federal Rules of Civil Procedure, submit the following proposed voir dire questions.

1. JURORS: FAMILIARITY WITH PARTIES, COUNSEL AND WITNESSES.

1. The Plaintiff in this case is Getro Milfort, whom I ask to stand. Do any of you, or does any member of your immediate family or any of your friends, know the Plaintiff, Getro Milfort? Is there any reason that you, a member of your family, or any of your close friends would have any ill feelings towards Mr. Milfort?
2. If your answer to the preceding question is in the affirmative in any respect, what is the nature of your relationship or association? Have you, any member of your family or any of your friends ever had any personal or business dealings with Mr. Milfort? Would any such relationship or association prevent you from rendering a fair and impartial verdict?

3. Defendants are Lieutenant Felix Prevete and Court Officer Christopher Ferrari, court officers with the New York State Unified Court System/Office of Court Administration, nominally known as the New York State courts. I ask Lt. Prevete and Court Officer Ferrari to stand. Do any of you, or does any member of your immediate family or any of your friends, know Lieutenant Prevete or Court Officer Ferrari? Is there any reason that you, a member of your family, or any of your close friends would have any ill feelings Lieutenant Prevete or Court Officer Ferrari?
4. If your answer to the preceding question is in the affirmative in any respect, what is the nature of your relationship or association? Have you, any member of your family or any of your friends ever had any personal or business dealings with Lieutenant Prevete or Court Officer Ferrari? Would any such relationship or association prevent you from rendering a fair and impartial verdict?
5. Have you, any member of your family or any of your friends ever had any personal or business dealings with the New York State courts?
6. Are you or any member of your family related to any employee of the New York State courts?
7. Do you know anyone who ever worked for the New York State courts?
8. Do you know anyone that has been discharged by the New York State courts?
9. Is there any reason that you, a member of your family, or any of your close friends would have any ill feelings towards the New York State courts?
10. Would any such relationship or interest prevent you from rendering a fair and impartial verdict?
11. Mr. Milfort is represented by his attorney, Paul Hale. Michael Siudzinski and Charles F. Sanders, of the New York State Attorney General's Office, will represent Lieutenant Prevete and Court Officer Ferrari. Do any of you know any of the attorneys or the parties in this case?

12. I am going to read a list of names of people who may be called as witnesses in this case. While we expect that some of these potential witnesses will not actually testify in this trial, we need to learn from you if you know any of them. Please raise your hand if you think you know anyone on this list:

- a. Court Officer Anthony Lazzaro
- b. Court Officer Henri Roc
- c.
- d.
- e.

13. As to any juror indicating that he/she knows any claimant or witness:

- a. Which person or persons do you know?
- b. How do you know that person?
- c. Would your acquaintance with/relationship to _____ in any way affect any decision which you may be required to make as a juror? If yes, how would this affect your decision as a juror?
- d. Would you be more likely to believe _____ or would you assign more or less weight to anything he/she might say because of your relationship to him/her?

2. ATTITUDES TOWARDS THE STATE OF NEW YORK AND ITS EMPLOYEES

1. Would you be more likely to award money damages to a plaintiff when the defendants are State employees? Please remember that the employer agency, the New York State Unified Court

System/Office of Court Administration, is not a defendant at this trial, only these individual employees.

2. Do any of you feel disposed to grant monetary damages to a plaintiff -- even if he fails to prove his case in accordance with the rules the Court will explain to you later -- simply because the defendants work for the State of New York?

3. Do you now have, or have you ever had, a law suit or a claim for compensation against the State of New York or any of its employees or any government agency?

4. Based on your experience, do you feel that you could not render a fair and impartial judgment in this case?

5. Some of the witnesses who will be testifying in this case currently are employees of the New York State courts or formerly worked for the court system. Would you be less likely to believe sworn testimony from the New York State courts current or former employees?

6. Do you believe that State employees being sued for job-related activities would be likely to testify in such a way as to protect their jobs rather than to tell the truth?

7. Do you have any personal feelings against State or other governmental agencies? Do you believe that they should be treated fairly, and just as fairly as individuals?

8. Do you have any feeling or belief which would prevent you from rendering a verdict in favor of a government employee and against an individual based solely on the fact that one party is a government employee and the other an individual?

9. Do you have any feeling or belief which would prevent you from rendering a verdict in favor of a government employee and against an individual who has alleged he was unfairly treated?

10. Would anyone be more likely to believe evidence offered by Plaintiff than the evidence offered by Defendants because Plaintiff is an individual suing members of the law enforcement/security division of the New York State courts?

11. Do any of you feel sympathetic to people who bring proceedings or complaints against public employees in court or elsewhere?

12. Have you had any personal experience or interaction with the NY State court officers? Please describe. Has your family or friends had any such experience? What was the outcome? Please tell us whether you believe you or family member or friend was treated fairly.

13. Have you had any personal experience or interaction with any law enforcement agency/police officers in this or any other jurisdiction? Please describe. Has your family or friends had any such experience? What was the outcome? Please tell us whether you believe you or family member or friend was treated fairly.

14. Have you or any close family members or friends been arrested? Please describe (come to sidebar if necessary). Would anything about that experience make it difficult for you to be fair and impartial in this case? What was the outcome? Please tell us whether you believe you or family member or friend was treated fairly.

15. Have you or any close family members or friends been convicted of a crime? Please describe (come to sidebar if necessary). Would anything about that experience make it difficult for you to be fair and impartial in this case? Please tell us whether you believe you or family member or friend was treated fairly.

3. JURORS' BACKGROUNDS

The parties are entitled to know about your personal backgrounds.

General

1. Where do you live?
2. Are you married? Have you ever been married?
3. Do you have any children?
4. How many, what are their ages?
5. What level of education have you completed? Public or private? Where and what school did you attend? What was your major field of study?
6. What level of education did your spouse complete? Public or private? Where and what school(s)? What was his/her major field of study?
7. Are your children now in school? Public or private? Where and what school(s)? What level of school have they completed? What is/was their major field of study?
8. Do you own or rent your home? Do you own real property?
9. How many people live in your household?
10. What ages, sexes?
11. What is your relationship with them?
12. How long have you lived there? Please name other communities, places, cities, or states where you have resided.
13. Do you have any problems with hearing or eyesight?
14. Do you have any personal matters that you would like to or need to discuss with the Court in private?

Occupation

1. What is your present occupation?
2. How long have you worked in that position?
 - (1) What is your job title?
 - (2) What type of work do you do?
 - (3) Do you like your job?
3. What did you do before you held your current job? What other occupations and jobs have you held? Where?
4. Have you ever worked for the State, City or other governmental entity? When? In what capacity? Reason for leaving?
5. Have you ever been terminated from your employment?
6. Have you ever filed a complaint against an employer or supervisors?
7. Do you think that the experience would in any way prejudice you in this matter?
8. Does your spouse work? Where is that? How long has he/she been employed there?
Where did your spouse work previously?
9. Has your spouse ever worked for the State, City or other governmental entity? When?
In what capacity? Reason for leaving.

Media, Activities, and Organizations

1. Which newspapers, magazines, and publications do you read? Daily, weekly, monthly, etc.
2. Which type of books do you read?
3. What type of television programs do you watch/view? On a daily or weekly basis, how much time do you watch television?

4. What type of radio programs do you listen to? On a daily or weekly basis, how much time do you listen to the radio?

5. What activities are you involved outside of your employment? What are your hobbies?

6. Do you currently or were you ever a member of any ethnic, community, non/not for profit, social and/or political organizations? Specify which organizations.

Internet/ Social Media

1. Do you use the internet? For what reasons or purposes? Business? Entertainment? Social? Read? Research? Shop? On a daily or weekly basis, how much time do you spend on the internet?

2. Do you use, participate, or maintain an account in any social media sites, such as Facebook or Twitter? On a daily or weekly basis, how much time do you spend on social media?

4. JURORS' EXPERIENCE WITH LAWSUITS AND JURY SERVICE.

1. Have you, any friends or relatives ever brought lawsuits or claims against either a law enforcement officer/police officer or law enforcement agency? What was the outcome? Please tell us whether you believe you or family member or friend was treated fairly.

2. Have you ever been a party to or a witness in a lawsuit? If so, please describe the lawsuit and your role in it.

3. Has anyone ever sued or been sued in court in any type of case (including an employment related case)? If so:

(1) What type of case was it?

(2) Were you the person suing or the person being sued?

- (3) Who was the other party in the lawsuit?
 - (4) Did the case go to trial before a judge or jury?
 - (5) How did the court/jury rule?
 - (6) How did the handling of your case make you feel about the judicial process in general?
4. Have any of you ever served on a jury before? If so:
 - (1) When?
 - (2) What type of case?
 - (3) Was a verdict rendered?
 - (4) How did you feel about the way the lawyers conducted themselves in that case?
 - (5) Have you ever served on a jury? Have you ever been the foreman (forewoman)?
 - (6) Was this a civil or criminal case?
 - (7) What was the nature of the charges against the defendant?
 - (8) Was a verdict reached?
 - (9) Does your prior experience in that case make you feel in any way that you will be unable to be fair and impartial in this case?
5. Have you or any member of your family or close friend ever been a plaintiff, a defendant, or a witness in a civil case? Did you testify?
6. Did the matter go to a jury? Was a verdict rendered? Was the matter settled before a final verdict was reached?

7. How did you feel about the experience? Did you feel justice was done? Did you form any opinions about the civil court system? What were they?
 8. Has that experience served to make you feel that our system of civil justice is fair? Awards damages appropriately? Denies relief unfairly when a case has not been proven?
 9. What is your concept of the burden of proof in a civil case? If the judge instructs you differently than you previously thought, will you be able to follow his instructions?
5. JURORS' EXPERIENCE WITH LEGAL SYSTEM.

1. The functions of the judge and jury are very different. Your duty will be to listen to the testimony. At the conclusion of the testimony, I will instruct you as to what the law is and will charge you to apply those principles of law to the case before you. You jurors -- and only you -- then decide the facts, that is, what happened. You must apply the law that I instruct you to the facts as you find them, regardless of whether you agree with the law, or think it is wise, just or fair. You do not have any choice in that regard. Do you each understand this, and can each of you follow this instruction without any reservation?
2. Sometimes a natural reaction is to "feel sorry" for a plaintiff in a lawsuit. Would you allow any sympathy you might have for that person to affect your decision in this case?
3. Is there anything at all that any of you can think of that would prevent you from being completely fair and impartial in this case?
4. Is there anyone here who believes that just because Mr. Milfort has filed a lawsuit, he is entitled to recover something?

5. Do you understand that Mr. Milfort's case is put on first? Are you confident that you will be able to reserve judgment on this case until you have heard both sides of this case?
6. Do you as jurors understand that merely because Mr. Milfort has filed this lawsuit it does not mean that the Defendants have done anything wrong or violated some legal rights Mr. Milfort may have had?
7. Do you understand that Mr. Milfort is required to prove by a preponderance of the evidence that some legal right has been violated and that it is not up to Defendants to disprove the claims Mr. Milfort has made? Do you understand that Mr. Milfort has to do something more than merely accuse the defendants of wrongdoing?
8. If you are selected as a juror, would you require Mr. Milfort to prove his case by a preponderance of the evidence?
9. Can you follow the Court's instruction that you should not find it unlawful to treat an employee in a particular way simply because you disagree with the reasons or find the reasons harsh?
10. Will you be able to follow the court's instruction that Mr. Milfort has the burden to prove he was the subject of a false arrest, false imprisonment and excessive force at the Kings County Civil Court Courthouse?
11. Would any of you have difficulty refusing to award damages to plaintiff if he incurred some economic hardship, but he could not prove that Lieutenant Prevete and Court Officer Ferrari violated his rights and did not subject him to a false arrest, false imprisonment and any excessive force?
12. Will serving on this jury be a burden to you?

13. Do you feel that jury duty will create a financial hardship for yourself or your family?

If so, please explain.

14. Do you have any preference as to the outcome of this trial?

15. In the trial of this case, both parties are entitled to have the case decided on the basis of the evidence presented at trial. Is there any reason why any of you might not be able to render a fair verdict?

6. OPINIONS ABOUT LEGAL SYSTEM

1. Do you have any opinions about the legal system that would prevent you from being a fair and impartial juror in this case?
2. While recognizing that a person being arrested is an unpleasant and unfortunate experience, will you be able to separate out any feelings of sympathy or compassion that you may have for Mr. Milfort and decide the case on the facts -- without sympathy or compassion for Mr. Milfort and without prejudice against Defendants?

7. MILITARY / LAW ENFORCEMENT

1. Have you or any member of your family ever been a member of the armed forces?
2. What was the branch of service? What was the assignment? Where was this service rendered? When was this service rendered?
3. Did you or any member of your family ever serve in the capacity as a police or corrections officer while in the military? When was this service rendered? What were the circumstances?
4. Are you or any member of your family, or any close friend, now involved (or have ever been involved in) the state or federal court system, the state or local police, prison or parole systems or any other area of law enforcement?

5. What was the capacity of the involvement? When did this involvement occur? What is the time period of this involvement?

Dated: New York, New York
May 16, 2013

Respectfully Submitted,

ERIC T. SCHNEIDERMAN
Attorney General of the
State of New York
Attorney for Defendants
Lieutenant Prevete and Court Officer Ferrari
By:

_____/S/ CFS
CHARLES F. SANDERS
MICHAEL SIUDZINSKI
Assistant Attorneys General
120 Broadway
New York, New York 10271
(212) 416-8594/8610